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Attorneys for Defendant

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

MERCK EPROVA AG,	:	Case no. 07 Civ. 5898 (RJS)
Plaintiff,	:	
-against-	:	
GNOSIS S.P.A. and GNOSIS BIORESEARCH S.A.,	:	
Defendants.	:	

X

RENZO BERNA, being duly sworn, deposes and says:

1. I am the managing director of the defendant Gnosis S.p.A., and I am fully familiar with the facts set forth in this affidavit based on my personal knowledge.
2. I submit this affidavit in further support of the defendants' motion to dismiss the complaint for lack of jurisdiction.

Gnosis S.p.A.

3. Gnosis S.p.A. ("Gnosis") is an Italian corporation, with its principal place of business in Italy.
4. Gnosis has no offices, telephone numbers, employees, or bank accounts in New York or anywhere else in the United States.

[Handwritten signatures of Renzo Berna and another individual]



5. Gnosis sells no product in New York. Gnosis only sells product in the U.S. to distributors, none of which are located in New York.

6. Gnosis sells to only two distributors in the United States: AHD in Atlanta, Georgia; and Weller Health in Los Angeles, California.

7. Gnosis conducts no advertising in New York.

8. Gnosis maintains an internet website (www.gnosis-bio.com). The website can be viewed by any internet user, but it does not accept orders or inquires. It allows a viewer to read information, but it is not interactive.

9. When one of Gnosis's distributors sells Gnosis's product, the distributor prepares any label for the product. Gnosis does not prepare any labels for its product for sales by its distributors.

10. Gnosis has not made any sales in New York. Upon information and belief, AHD resold one shipment of Gnosis product — consisting of one kilogram, for which AHD charged \$5,000 — to a New York buyer.

11. Gnosis has no affiliation with AHD. They are totally separate companies. They have separate ownership, management, directors, and control.

Gnosis Bioresearch S.A.

12. Gnosis Bioresearch S.A. ("Bioresearch") is a Swiss corporation, with its principal place of business in Switzerland.

13. Bioresearch is a wholly-owned subsidiary of Gnosis.



14. Bioresearch sells all of its product to Gnosis. Bioresearch sells no product in New York or anywhere else in the United States.

15. Bioresearch has no offices, telephone numbers, employees, or bank accounts in New York or anywhere else in the United States

16. Bioresearch conducts no advertising in New York

17. Bioresearch has no affiliation with AHD. They are totally separate companies. They have separate ownership, management, directors, and control.

RENZO BERNARDI

Sworn to before me this
day of , 2008

Notary Public

Vera e autentica la firma apposta sul documento che precede
redatto in lingua inglese da me Notaio personalmente
conosciuta, dal signor RENZO BERNA nato a Cinisello Balsamo
il 27 gennaio 1951 e domiciliato per la carica ove appresso,
nella sua qualità di Amministratore Delegato della "GNOSIS
S.P.A." con sede in Milano, Piazza del Carmine n. 4.
Monza, uno febbraio duemilaotto

 

